

REMARKS

Applicants respectfully request consideration of the subject application as amended herein. This Amendment is submitted in response to the Office Action mailed August 5, 2005. Claims 1-32 are rejected.

In this Amendment, claims 1-4, 7, 9-12, 15, 17-20, 23, 25-28 and 31 have been amended. It is respectfully submitted that the amendment does not add new matter. Applicants reserve all rights with respect to the applicability of the doctrine of equivalents.

The Examiner has rejected claims 1, 2, 7-10, 15-18, 23-26 31, and 32 under 35 U.S.C. §102(e) as being anticipated by Fan, et al., (USPN: 6,408,005, hereinafter "Fan"). The Examiner has further rejected claims 3-6, 11-14, 19-22 and 27-30 under 35 U.S.C. §103(a) as being unpatentable by Fan. As discussed below, the pending claims are patentable over Fan.

Amended claim 1 reads as follows:

A method comprising:
determining a position of a buffer containing a plurality of data units
based upon a Theoretical Departure Time variable buffer parameter
associated with said buffer and a current time counter value; and
modifying a signal prompting selection of said buffer for release of at
least one data unit of said plurality of data units based on said position on said
time scale.

(Claim 1, as amended) (emphasis added).

Thus, claim 1 recites determining a position of a buffer on a time scale based upon a Theoretical Departure Time variable buffer parameter associated with said buffer and a current time counter value. Fan discloses scheduling cells for service in an ATM switch by taking into account a minimum guaranteed rate and a portion of

the unused bandwidth. (Fan col. 5, lines 38-45). Fan discloses accounting for timing of cell transmission using the following mechanism:

At any given current time, CT, any cell having a timestamp which equals the current time is eligible for service. Therefore, there is no need for constant ordering of the cells according to timestamps.

(Fan col. 6, lines 32-35). Thus, Fan merely discloses a timestamp. Fan does not teach or suggest that the timestamp associated with a buffer is variable. Therefore, Fan does not anticipate or render obvious independent claim 1 and associated dependent claims 2-8, which include each and every limitation of claim 1.

Amended claim 9 reads as follows:

A system comprising:
a memory module for storing a plurality of buffers; and
a scheduler module for determining a position of a buffer containing a plurality of data units on a time scale based upon a Theoretical Departure Time variable buffer parameter associated with said buffer and a current time counter value, said buffer containing a plurality of data units and for modifying a signal prompting selection of said buffer for release of at least one data unit of said plurality of data units based on said position on said time scale.

(Claim 9, as amended) (emphasis added).

As discussed, Fan merely discloses a timestamp. Fan does not teach or suggest that the timestamp is variable. Therefore, Fan does not anticipate or render obvious independent claim 9 and associated dependent claims 10-16, which include each and every limitation of claim 9.

Amended claim 17 reads as follows:

A system comprising:
means for determining a position of a buffer containing a plurality of data units on a time scale based upon a Theoretical Departure Time variable buffer parameter associated with said buffer and a current time counter value; and
means for modifying a signal prompting selection of said buffer for release of at least one data unit of said plurality of data units based on said position on said time scale.

(Claim 17, as amended) (emphasis added).

As discussed, Fan merely discloses a timestamp. Fan does not teach or suggest that the timestamp is variable. Therefore, Fan does not anticipate or render obvious independent claim 17 and associated dependent claims 18-24, which include each and every limitation of claim 17.

Amended claim 25 reads as follows:

A computer readable medium containing executable instructions, which, when executed in a processing system, cause said processing system to perform a method comprising:

determining a position of a buffer containing a plurality of data units on a time scale based upon a Theoretical Departure Time variable buffer parameter associated with said buffer and a current time counter value; and

modifying a signal prompting selection of said buffer for release of at least one data unit of said plurality of data units based on said position on said time scale.

(Claim 25, as amended) (emphasis added).

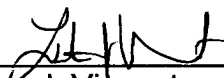
As discussed, Fan merely discloses a timestamp. Fan does not teach or suggest that the timestamp is variable. Therefore, Fan does not anticipate or render obvious independent claim 25 and associated dependent claims 26-32, which include each and every limitation of claim 25.

Applicants respectfully submit that the rejections have been overcome.
Authorization is hereby given to charge our Deposit Account No. 02-2666 for any
charges that may be due.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR
& ZAFMAN LLP

Dated: January 5, 2006



Lester J. Vincent
Attorney for Applicant
Registration No. 31,460

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026
(408) 720-8300